



Memorandum

Date: September 18, 2014

To: Ms. Barbara Evoy, Deputy Director of Water Rights
State Water Resources Control Board
Division of Water Rights
Post Office Box 2000
Sacramento, CA 95812-2000

From: 
Scott Wilson, Regional Manager
California Department of Fish and Wildlife – Bay Delta Region, 7329 Silverado Trail, Napa, California 94558

Subject: California Department of Fish and Wildlife Public Trust Terms for the Gallo Glass Water Rights Applications A032028, A010795, A014178, A13684A and A013384

Correct A031743 see email 9/19/14 from CDFW; Apply throughout BSS 9/25/14

The California Department of Fish and Wildlife (CDFW) staff have been working with Gallo Glass (Applicant) to develop terms to minimize and avoid potential impacts from the project on Public Trust resources. The proposed project under Application 32028 requests approximately 253-acre feet of water to be diverted from the mainstem Russian River between October 1 and March 31 for use on existing vineyards. The applicant has agreed to the following terms to minimize and/or avoid impacts to sensitive public trust resources. The purpose of this letter is to inform the State Water Resources Control Board (SWRCB) that CDFW will support the prioritization of Permit issuance for the new Application if the following terms are incorporated as enforceable conditions of the Permit. Consistent with the criteria for prioritization of the processing of applications, the following terms 1) are consistent with principles of the Policy for Maintaining Instream Flows in Northern California Coastal Streams, 2) have been developed and are supported by CDFW and the National Marine Fisheries Service (NMFS), 3) will enhance conditions for fish and wildlife, 4) include project modifications as recommended by CDFW, and 5) will likely resolve any outstanding Protests. The applicant has indicated that the following terms are acceptable for inclusion into the revised Permit.

Minimization and Avoidance Measures

Application A032028

1. The season of diversion shall be limited to October 1 to March 31 of each year.
2. Total amount of water to be diverted to storage in the reservoir under Application 32028 shall not exceed 253-acre feet per year.
3. Fish and Wildlife Enhancement shall be included as a purpose of use, and Porter Creek will be added to the place of use where water will be used.

4. Diversion of water into the reservoir under any right shall not occur until after flow exceeds 250 cubic feet per second (cfs) as measured at the Healdsburg U.S. Geological Survey Gauge.
5. Diversion rate under Application A032028 shall not exceed three cfs.
6. A summer/fall instream flow enhancement plan shall be developed in coordination with CDFW and NMFS within 60 days of the SWRCB's approval of the permit. The plan will describe the volume, rate, timing and other conditions of release for enhanced rearing conditions in Porter Creek in years where water is available. The flow enhancement plan will be similar to the flow enhancement program developed by Gallo, CDFW and NMFS in the fall, 2014.
7. No fish of any kind shall be planted in the reservoir.
8. Permittee shall conduct appropriately timed surveys every year to determine if bullfrogs are established within the reservoir. If any bullfrog adults, eggs and/or tadpoles are detected, they shall be managed promptly such to prevent colonization. All survey and direct removal efforts must be made by a person knowledgeable in species identification using a method approved by CDFW. By December 31 of the survey year, a report summarizing all survey and management efforts shall be provided to CDFW's Bay Delta Regional Office. Based on the information provided in each summary report, CDFW may impose additional bullfrog management requirements.
9. Permittee agrees to allow reasonable access for CDFW personnel to monitor compliance.
10. Gallo will submit a Notification and fees and will execute a Lake and Streambed Alteration Agreement (LSAA) with CDFW pursuant to Fish and Game Code Section 1600, et seq. The LSAA will be developed concurrent with the protest dismissal and the issuance of the permit, and may bypass other operational and study conditions substantially similar to the conditions set forth herein.
11. Total use under Application 32028 and under Licenses 3697, 4216, 4729A and 5559 (Applications A010795, A014178, A13684A and A013384 respectively) shall not exceed 750-acre feet per annum.

Petitions for Change for Licenses 3697, 4216, 4729A and 5559 (Applications A010795, A014178, A13684A and A013384 Respectively)

1. The combined diversion rate under Licenses 3697, 4216, 4729A and 5559 shall not exceed 2.26 cfs.
2. Fish and Wildlife Enhancement shall be included as a purpose of use.

3. Total use under Application 32028 and under Licenses 3697, 4216, 4729A and 5559 (Applications A010795, A014178, A13684A and A013384 respectively) shall not exceed 750 acre feet per annum.

CDFW and the applicant are currently working on the summer/fall enhancement plan with the goal of releasing flow into Porter Creek during the fall of this critical drought year. However, the applicant will need a Permit in place prior to November 1 to assure that water is available for diversion this winter. As such, CDFW is requesting that SWRCB expedite the processing of the Permit to allow fish flow releases to occur as soon as possible. If you have questions regarding the above terms or CDFW's support of the project, please contact Ms. Corinne Gray, Senior Environmental Scientist (Specialist), at (707) 944-5526; or Mr. Craig Weightman, Environmental Program Manager, at (707) 944-5577; or by writing to CDFW at the above address.

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